in law or in fact at all, notwithstanding the presence of the words "correctness, legality or propriety" in section 320 which deals with a different matter. Their Lordships express no opinion on this topic. It is sufficient for them to say that the argument would have been a legitimate one and had it been successful the court would have been just as powerless to increase the sentence under the revision sections as it was under the sections relating to appeal. It would not in their Lordships' view be right to dismiss the appeal on the assumption, which is fundamental in Mr. Gahan's argument, that the court could clearly have done in revision what it was not competent to it to do on appeal i.e. to increase a sentence without there being any error in law or in fact.

Their Lordships should add that they do not accept Mr. Page's contention that the case is not one where it can be said that the record came "to the knowledge of the Court" within the section 322. They consider that the requirements of the section in that respect were duly satisfied. They also make no reference to the Indian cases of *Kishan Singh v. The King-Emperor*[2] or *Sayyapureddi v. The King-Emperor*[3] cited by Mr. Page. In those cases the questions of want of jurisdiction were of a different character.

Their Lordships will humbly advise His Majesty that the appeal should be allowed.

Appeal allowed.

IN RE JOSEPH AARON ELIAS, DECD.

[Orig. Civ. Juris. (Murray-Aynsley, C. J.) March 23, 1950]
[Singapore — Originating Summons No. 67 of 1950]

Wills Ordinance — Specific gift — Whether gift takes effect.

In this Originating Summons the question raised was one of interpretation of the following clause in the Will of the deceased: "I give and bequeath all the jewellery diamonds precious stones and gold deposited with me in the Hongkong and Shanghai Banking Corporation's Branch Bank in Bombay unto my sisters, Mrs. D. J. Elias, Mrs. Esther Manasseh and Mrs. D. Frankel to be divided amongst them equally." At the time of the death of the deceased there were no goods of that description deposited in the bank.

Held, that the gift in this case was a specific gift and that the recipients were therefore entitled to the collection that was at one time in the bank in question and which were clearly identifiable.

Case referred to:—

(1) *In re Whitby* (1944) 1 All E. R. 299.

ORIGINATING SUMMONS.

C. H. Smith for the Trustees of the Will of J. A. Elias (decd.).

Sir Roland Braddell for Mrs. D. J. Elias.

S. H. D. Elias for nephews and nieces of the deceased.

Cur. Adv. Vult.

Murray-Aynsley, C. J. : — The present question is one of interpretation of the following clause in the will of the deceased :—

"5. I give and bequeath all the jewellery diamonds precious stones and gold deposited with me in The Hongkong & Shanghai Banking Corporation's Branch Bank in Bombay unto my sisters, Mrs. D. J. Elias, Mrs. Esther Manasseh and Mrs. D. Frankel to be divided amongst them equally."

At the time of the death of the deceased there were no goods of that description deposited in the bank.

Consideration of the local equivalent of section 24 of the Wills Act is necessary.

Owing to the particular rule of construction imposed by that section unless a contrary intention "shall appear by the will" the gift fails owing to the fact that at the time of the death of the deceased there was nothing that answered to the description in the will.

It has been decided and is, I think, well established that a specific gift in a will in every case shows a contrary intention.

I think, therefore, that the answer to the question must depend on whether there is anything in the will that shows that the gift in question is specific and not generic.

I think that the use of the definite article can be taken as indicating that the deceased was referring to a particular collection of jewellery, etc. and not to any goods of that description that might at any future time be in the bank.

In the recent case of *In re Whitby*[1], it would appear that the use of the word "now" might have had a similar effect. I think that such a *ratio decidendi* would have been sounder than that adopted by Lord Greene, the then Master of the Rolls. It is interesting to note that a similar interpretation in the past would have deprived All Souls of part of the Codrington Library.

In the circumstances I consider that the gift takes effect and the recipients are entitled to the collection that was at one time in the bank in question and which the affidavit shows to be clearly identifiable.

Order accordingly.

UNITED STATES OF AMERICA v. YANG SOON EE & ANOTHER.

[Orig. Civ. Juris. (Murray-Aynsley, C. J.) March 28, 1950]
[Singapore — Civil Suit No. 134 of 1950]

International Law — Claim against a ship in possession of persons who hold it on behalf of a Sovereign Government — Jurisdiction.

In this case the plaintiffs issued a writ against the defendants, the acting captain and third officer respectively of a ship known as "Hai Hsuan", claiming that